



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
FAMILY INDEPENDENCE AGENCY
LANSING



NANNETTE M. BOWLER
DIRECTOR

MICHIGAN IV-D ACTION TRANSMITTAL 2003-006

TO: Friends of the Court
Prosecuting Attorneys
Office of Child Support

FROM: Marilyn F. Stephen, Director
Office of Child Support

DATE: March 27, 2003

SUBJECT: Agency Complaint Signatures

Purpose

This Action Transmittal (AT) informs partners of options for obtaining authorized signatures on "agency complaints." This AT modifies instructions provided in *OCS Contact Information*, revised February 18, 2003, published on the Mi-Support Internet site, <http://mi-support.cses.state.mi.us/organization/ocscontacts/default.htm>.

Policy

"Agency complaints" are complaints in which the Family Independence Agency (FIA or "Agency") is the complainant.

The Family Support Act, at MCL 552.451, states that a complaint must be verified by the person seeking support:

The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons that shall be personally served upon the noncustodial parent of the children and spouse of the petitioner.

Other child support establishment statutes have similar provisions.

MCL 552.451b declares that the director of FIA or designated representative or director of the county FIA can file in the same manner under specified conditions:

The director of social services (*the FIA*) or his or her designated representative or the director of the county department of social services of the county where the custodial parent or minor child or children or child or children who have reached 18 years of age reside or the director's designated representative may proceed in the same manner and under the same circumstances as provided in sections 1 and 1a against the

noncustodial parent for the support of the custodial parent and minor child or children or child or children who have reached 18 years of age if the custodial parent and minor child or children or child or children who have reached 18 years of age or any of them are being supported, in whole or in part, by public assistance under the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

The directors or their designated representatives as specified in the statute can file “in the same manner” as the parent, and thus must verify an agency complaint if it is not verified by the custodian.

Issues Regarding Use of Signature Stamp

Can a director or his/her designated representative use a signature stamp for this purpose?

State law now allows electronic signatures under specified circumstances. See, *e.g.*, Uniform Electronic Transactions Act, Act 305 of 2000, MCL 450.832 *et seq.* Further, Michigan has also passed the “Cybercourt” Act, PA 262 of 2001, MCL 600.8001 *et seq.*, effective October 12, 2002. This law authorizes the establishment of “virtual” courtroom facilities, and allows court proceedings to be conducted electronically and documents to be filed electronically.

Documents filed electronically do not bear the original signature of a party or attorney, but rather present an electronic representation of such signature. The presentation of an electronic signature is not very different from a stamped signature – neither is original, both are labor-saving devices.

If a court determines that the party has “failed to sign” a pleading, the remedy is simple: MCR 2.114(c)(2) directs that the document “shall be stricken unless it is signed promptly after the omission is called to the attention of the party.”

Based on the above, Prosecuting Attorneys (PAs) may decide that agency complaints may be stamped rather than signed. Should the agency or its representative receive information that any complaint must bear an original signature rather than a stamp, the agency or representative will immediately provide such original signature on the document in question.

Other Methods by Which the Prosecuting Attorney Obtains Authorized Signatures

Typically, a PA prepares agency complaints and then obtains an authorized signature on the complaint, as described above. The PA has several options for obtaining authorized signatures:

1. The PA may fax complaints to the Lansing OCS Operations Unit or the Southeast OCS Operations Unit. Complaints will be signed and faxed back to the sender by a Support Specialist. The fax numbers of the Operations Units are:
 - Lansing OCS Operations Unit: 1-517-241-0844.
 - Southeast OCS Operations Unit: 1-313-361-7199.Supreme Court Administrative Order 1994 – 2 states that a signature transmitted by facsimile communications equipment meets the requirements of MCR 2.113.
2. The PA may send complaints by US mail to the Lansing or Southeast OCS Operations Units. They will be signed and returned to the sender by US mail. The addresses of the OCS Operations Units are:
 - Lansing OCS Operations Unit: PO BOX 30750, Lansing, MI 48909-8250
 - Southeast OCS Operations Unit: PO BOX 02991, Detroit, MI 48202-2991
3. The PA may send complaints to the local county FIA office. The local county FIA director is authorized by law to designate a representative to sign complaints. The local office will sign the complaints and return them to the local county PA office. The PA should avoid acting as the designated representative of FIA for several reasons:
 - The PA does not have personal knowledge of the facts that are required to sign a verification of the complaint. The facts known to the PA are gleaned typically from other people (such as the Support Specialist.)
 - The PA should sign the agency complaint as the attorney of record.

LEGAL REFERENCES:

Family Support Act, MCL 552.451, 552.451b
Status of Minors Act, MCL 722.3(2)
Paternity Act, MCL 722.714
MCL 8.3q
Michigan Court Rules, MCR 2.113, 2.114(c)(2)
Uniform Electronic Transactions Act, Act 305 of 2000, MCL 450.832 et seq.
Cybercourt Act, PA 262 of 2001, MCL 600.8001 et seq.

POLICY REFERENCE: Prosecuting Attorney Handbook Section 230

AT MAINTENANCE: Retain this Action Transmittal.

EFFECTIVE DATE: Upon receipt.

CONTACT PERSON: Ellen Durnan, OCS Policy Analyst; (517) 241-8051, DurnanE@michigan.gov.

CC: All Combined IV-D Policy Manual recipients